

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FILED
JAN 08 2020
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

THOMAS J. GRECO, JR., Pro-Se)	CASE NO. : 1:09CR506
Defendant,)	JUDGE JOHN R. ADAMS
v.)	SUPPLEMENTAL MOTION III DUE TO
UNITED STATES OF AMERICA)	JANUARY 1, 2020 FINANCIAL STATUS
Plaintiff,)	CHANGES WITH DEFENDANT'S
		RESTITUTION.

Defendant Thomas J. Greco, Jr, enters Supplemental III Due to a change in his Financial Status effective January 1, 2020. The government takes 25% of Mr. Greco's Pension. On May 30, 2019 Mr. Greco entered a Motion to show that now he has been released and daily expenses occurred cannot support the taking of 25% of his pension. Mr. Greco supplies documentation that shows by taking the 25% Mr. Greco cannot support the basic expenses. Mr. Greco requests this Honorable Court to reduce his restitution to \$25 a month.

BACKGROUND

On January 9, 2009 Mr. Greco resigned (and was not fired) from Metrohealth Medical Center per his Attorney Jeff Kelleher request to do so. Kelleher stated that this would look good in the governments' eyes. As of this date to present January 6, 2020 Mr. Greco has not worked or received monies from working.

On February 1, 2009 Mr. Greco was approved by OPERS for a Disability Pension. Mr. Greco at no time ever received a penny of this pension due to the government putting a freeze on it until January 17, 2013.

On June 8, 2010 Mr. Greco's trial ended. On August 8, 2010 Mr. Greco was charged Forfeiture of \$120,000. The government failed to ask Mr. Greco to supply a financial status that would have showed Mr. Greco available funds. (See February 17, 2011 Financial Status shows Mr. Greco's net worth of negative -\$50,173.00) Instead the government put a lien on his and his wife's home for the \$120,000. The home sold and Mr. Greco's wife received her half or \$105,000. Mr. Greco's wife then purchased a foreclosed home 2011 in her name only. Mr. Greco's wife has received monies from her mother's estate which has nothing to do with Mr. Greco. Mrs. Greco's wife is represented by her attorney Loretta Coyne. Ms. Coyne has stated that Mrs. Greco's monies have nothing to do with Mr. Greco's restitution.

On February 9, 2011 Sentencing Doc. #129 Judge O'Malley stated "Upon release from custody of the Bureau of Prisons, any restitution balance that remains will have to be satisfied with payments to

commence no later than sixty days following release from imprisonment to supervised release, in equal monthly payments of at least a minimum of 10% of defendants gross monthly income.

On February 17, 2011 Sentencing II Doc #130 Motion to Declare Defendant Indigent showing Mr. Greco's Net Worth to be negative -\$50,173.00. Mr. Greco spent their entire savings of \$326,000 on legal fees to Attorney Jeff Kelleher to prove his innocence. Also stated is that Carmela Greco last worked May 21, 1978. To date his Carmela has had no income from work.

On March 30, 2012 Judge O'Malley relocated and Judge Adams was assigned to Mr. Greco's case.

On April 25, 2012 Doc #200 Order granting Government's request to take all of Mr. Greco's back pension of \$146,812.47 and to garnish all future monthly payment at 25%.

On May 18, 2012 Mr. Greco being indigent was assigned to Attorney Lawrence Whitney. Mr. Whitney was assigned to argue on Mr. Greco's behalf the Government taking of Mr. Greco's back pension and garnishing of 25% of future pension funds.

On January 8, 2013 Doc. #217 Attorney Whitney ineffectively argued state law vs. AUSA Rokakis arguing Federal Law. The Government then took Mr. Greco's back pension of \$146,812.47 and garnished all future pensions at 25%.

On January 17, 2013 Mr. Greco receives first monies from his Disability Pension of \$26,770.03.

On February 2, 2014 Mr. Greco receives a 1099-R from OPERS showing no monies were withheld by OPERS to pay Federal taxes on the \$146,812.47 given to Metrohealth for their legal fees occurred.

On March 10, 2014 Doc. #232 Judge Adams denied Mr. Greco's request to have Metrohealth pay the taxes on the back pension of \$146,812.47 monies taken.

On April 4, 2014 Mr. Greco had to pay Federal Taxes of \$46,991.00 on the back pension \$146,812.47 given to Metrohealth for their legal fees occurred.

On March 14, 2017 AUSA Rokakis sent letter to Mr. Greco stating "Upon your release from BOP, your financial situation will be reevaluated with your Probation Officer. At that time, the garnishment of your disability pension may or may not continue."

On February 5, 2019 Letter to Mr. Greco from Government Paul Miller Financial Litigation Agent stated "Enclosed is a Department of Justice Financial Statement. Please complete each section and provide all requested documentation. If you are not able to pay the entire amount in full, then please also write in the amount you propose to pay." Mr. Greco submitted all documentation but never heard from Mr. Miller.

Mr. Greco also questions why his Probation Officer as AUSA Rokakis stated or the Government's Paul Miller Financial Litigation Agent were not involved in Greco's revisions of Restitution. Instead AUSA Rokakis entered a Brief of Opposition to Mr. Greco's restitution request to reduce the 25% taken.

On May 30, 2019 Mr. Greco filed a Motion Doc. #286 asking the Court to reduce his monthly restitution to \$25 per month. This was due to Mr. Greco being released and now occurring expenses of his own. Mr. Greco supplied all documentation to support this request.

On June 20, 2019 Doc. #287. AUSA Rokakis entered Brief Opposition to Motion to Reduce Restitution. AUSA Rokakis incorrectly states he Mr. Greco has failed to demonstrate a change in his financial circumstances justifying a reduction in his garnishment payments. AUSA Rokakis also states the defendant owns a home without a mortgage and also lists liquid assets owned by his wife in excess of \$100,000. The following is a refute of those two items.

In June 2011 due to Forfeiture of \$120,000 the Government took Mr. Greco's home by way of a lien. Any funds or her half due to Greco's wife Carmela of \$105,000 was here's and not the governments. In September Mrs. Greco purchased a foreclosed home in her name only. Secondly any money Mr. Greco's wife receives in her name only from her mother's estate is not part of Mr. Greco's restitution per her Attorney Coyne. Also Mr. Greco does not own a home or a savings of \$100,000. AUSA Rokakis also stated "Part of the Defendant's questioned monthly expenses includes the cost of two automobiles, cost of insurance, gas and maintenance. Mr. Greco does not have a car; secondly Carmela Greco's car is 18 years old. These expenses are not included in Mr. Greco's present expenses but are needed as any other house hold.

AUSA Rokakis then states Mr. Greco showed other expenses such as Funeral, Attorney, Emergency Fund, Pacer etc. AUSA Rokakis is incorrect; these items are needed but are not included in Greco's monthly expenses. Mr. Rokakis also stated that Mr. Greco "can do without some expenditure." From the listed items of monthly expenses Mr. Greco does not see any items that can be deleted or do without.

AUSA Rokakis is incorrect; Mr. Greco has showed and demonstrated a significant change in his financial circumstances to justify that he cannot support the government taking 25% of his pension.

On July 5, 2019 Doc. #288 Greco Reply to Government's Response of Opposition to Greco's Restitution.

On July 28, 2019 Doc. #289 Supplemental Motion to Reply to Government's Response of Opposition to Mr. Greco's Restitution.

On December 2, 2019 Doc. #290 Supplemental II Motion to Reply to Government's Response to Opposition to Mr. Greco's Restitution.

Greco Family 2020 Actual Budget vs. Monies Received

Monthly Income

\$3,894.93 OPERS Pension to Mr. Greco. Gross Amount as of January 1, 2020.

\$973.73 OPERS to Government or 25% of Mr. Greco's Pension Gross Amount.

\$151.19 Federal Tax.

\$35.00 State Tax.

\$2,735.01 OPERS Pension Monthly to Mr. Greco.

\$187.02 Mr. Greco LMC.

\$2,922.03 Total Monthly Income.

Monthly Expenses

1. Electric- **\$164.63 month.**
2. Gas- **\$82.51 month.**
3. Water/Sewer- **\$71.05 month.**
4. Cable/Computer- **\$139.44 month.**
5. Carmela Phone **\$40.00 month.**

6. Thomas Phone \$21.70 month.
 7. Rubbish Removal- \$32.77 month.
 8. Property Taxes- \$303.46 month.
 9. Home Association Fee- \$330.00 year or \$27.50 month.
 10. Home Insurance- \$50.63 month.
 11. Carmela Medical Insurance- \$135.50 month.
 12. Carmela CoPay- \$145.00 month.
 13. Thomas Medical Insurance- \$135.50 month.
 14. Thomas CoPay- \$145.00 month.
 15. Car Carmela Insurance- \$56.37 month.
 16. Car Maintenance- \$189.98 month.
 17. Carmela Car Gas, Lawn Mower, Snow Blower \$153.26 month.
 18. Car License Plates and Two License Renewal- \$20.21 month.
 19. Food \$625.70 month.
 20. Clothing \$189.00 month.
 21. Tax Preparation Fee \$12.50 month.
 22. Prescriptions- \$15.00 month.
 23. Bank Security Fee- \$9.00 month.
 24. Postage- \$9.85 month.
 25. Home Regular Maintenance \$495.00 month. Upkeep, maintenance and or preventative maintenance items need to be completed. Some of those items are furnace maintenance, light bulbs; lawn fertilizer, seal the exterior fence, weed killer, ant spray, car wash, batteries for smoke detectors, garage door maintenance, cleaning of gutters, furnace filters, garbage bags, paint brushes, washing of exterior vinyl siding, repairs to broken exterior sprinkler system, toilet maintenance, caulk, paint, carpet repairs, screws, nuts, bolts, roof repairs, landscaping replacement, mulch, car wax, garden hose replacement. Home is 16 years old and needs maintenance.
- \$3,270.56 Actual monthly expenses items 1 to 25 vs. Income of \$2,922.03 Shortage of \$348.53 per month. The following items such as i.e.: Dental, Vision, Vehicle leases including other listed items is needed and is not included in the monthly expenses.

Monthly Additional Expenses, these are not included but need to be funded.

Mr. Greco does not have a vehicle also Carmela Greco's car is 18 years old and needs to be replaced. Vision, Dental and Dry Cleaning are a necessity. Needed Home Repairs and purchasing or replacement of personal property items such as a dryer or lawnmower is common in any household. Mr. Greco having to pay an attorney for legal assistance is more than needed. Monies for future funeral expenses are a way of life. Visit Holy Cross and thousand s of sites are pre purchased for future needs.

26. Car Thomas Purchase, Thomas does not have a vehicle. Lease \$319.00 month.

27. Car Thomas Insurance \$69.39 month.
28. Car Tom Plates- \$8.20 month.
29. Car Thomas Gas- \$153.26 month.
30. Car Thomas Maintenance- \$111.00 month.
31. Car Carmela Replacement to replace 2002 Toyota Matrix Lease of \$279.98 month.
32. Car Carmela Insurance Leased Car \$76.80 month.
33. Dry Cleaners- \$13.00 month.
34. Pacer Fee for Legal Documents. \$25.00 month.
35. Recreation/Vacations- \$106.00 month.
36. Gifts at Birthdays, Anniversaries, and Holidays for Children and Grand Children- \$105.00 month.
37. Thomas Life Insurance Policy. Neither Thomas nor Carmela has any life insurance. A cost for a Life Insurance Policy of \$25,000 for Thomas only is \$201.67 a month.
38. Church Contributions- \$45.00 month.

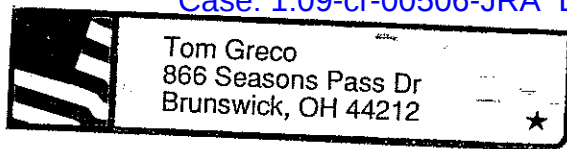
\$1,513.30 monthly additional expenses items 26 to 38.

Shortage of \$348.53 1 to 25 include the \$1,513.30 26 to 38 needed monthly equals a shortage of \$1,861.83 monthly.

Mr. Greco receives \$2,922.03 per month. With the adding of the \$973.73 the 25% the Government takes Mr. Greco would then receive \$3,895.76 per month. This is to cover expenses of \$3,270.56 and \$1,513.30 total \$4,783.86. Still having a shortage of \$888.10 per month to cover expenses.

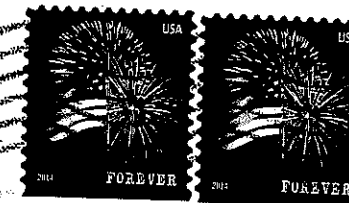
Additional Funds Needed to Purchase the Following:

39. Vision Expense- Not all Vision (Bi Focal) expenses are not covered by Medicare \$325.00.
40. Dental Expense. Not all Dental expenses are covered by Medicare. Only a Cleaning and X-Ray is covered. Carmela is needs dentures cost is between \$2,500. Thomas needs two (2) implants each at a cost of \$3,200.
41. Home Major Repairs- Carmela purchased a Foreclosed Home in 2011. Castle Home Inspection reviewed the home and listed major structural repairs that need to be completed. Cost is \$6,650.00.
42. Attorney Expenses- For 2020 are needed. \$7,500.00.
43. Purchase of Personal Property, Bedroom Set, and other items \$4,389.78.
44. Appliance Replacement; Dishwasher, Washer, Dryer, Microwave, and other items \$2,898.98.
45. Replace Weed Walker, Leaf Blower, Snow Blower \$795.00.
46. Thomas & Carmela's Funeral Expenses- Funeral costs average is \$7,181.00 each. Burial cost Holy Cross Cemetery \$16,500. This cost for both would cost \$30,862.00.
47. Emergency Fund should be 12 Months of Expenses Put Aside Amount/Unforeseen Expenses i.e. Unforeseen Major Surgeries, Roof Replacement, Driveway Replacement, Deductibles' on Car or Home Damage. This amount should be \$50,000.



CLEVELAND OH 44113

05 JAN 2020 PM 1 L



UNITED STATES COURT HOUSE
ATTENTION CLERK OF COURTS
801 WEST SUPERIOR AVE.
CLEVELAND, OHIO 44113.

44113-185200

